

Rigid Plastic Packaging
Container (RPPC)
Proposed Regulation Package
Monthly Public Meeting

January 17, 2012

CEQA



- Document Preparation
 - CalRecycle staff:
 - Completed an initial study
 - Determined the regulations will not have any significant effect on the environment
 - Prepared a Negative Declaration (Neg Dec)

CEQA



- Noticing Requirements
 - Provided a Notice of Intent to Adopt a Neg Dec by:
 - mailing to the interested public
 - publication in three newspaper of general circulation
 - Submitted the Neg Dec to the State Clearinghouse for distribution to state agencies

CEQA



- Comments Received
 - One comment letter:
 - Essentially agrees with staff's analysis
 - Urges CalRecycle to adopt the Neg Dec

CEQA



- Staff Recommendation
 - Adoption of the Negative Declaration and Initial Study and the filing of a Notice of Determination with the State Clearinghouse

Background



- RPPC law – SB 235, Statutes of 1991
 - Established basic requirements for RPPCs sold in California
- RPPC regulations –effective Jan. 1, 1995
- Significant changes to law:
 - Senate Bills (SB) 743 (Chesbro, Statutes 2005)
 - SB 1344 (Chesbro, Statutes 2006)
- RPPC update efforts initiated in 2007

Rulemaking Need



Primary Issues Addressed by Rulemaking:

- Clarify key definitions.
- Add pre-certification notification process.
- Add process to obtain advisory opinions on whether containers are regulated.

Rulemaking Timeline



- November, 2007 CIWMB Meetings
- December, 2010 Approval of Economic and Fiscal Impact Study
- Formal Rulemaking Activities:
 - 45-day Public Comment and Public Hearing
 - 2nd 45-day Public Comment and Public Hearing
 - 15-day Public Comment
 - 4 Public Workshops throughout the process

Key Revisions Proposed

- Proposed Revised Definitions
- Container Requirements and Alternative Container Compliance Method
- Compliance Certification
- Product and Container Manufacturer Certification

Key Revisions Proposed

- Waivers and Exemptions
- Advisory Opinions
- Violations and Penalties

Proposed Revised Definitions



- Material Type
- Postconsumer Material
- Reusable Container
- Rigid Plastic Packaging Container
- Source Reduction

Material Type, Section 17943(i)



- The current definition focuses on very broad feedstock categories of paper, glass, plastic, and aluminum.
- The proposed language focuses on the individual plastic resins used to make RPPC.

Postconsumer Material, CalRecycle

Section 17943(q)

- The regulatory language now mirrors the definition within PRC 42301 (g) & clarifies that post-industrial material commonly disposed of may count as postconsumer material.

Reusable Packaging, Section 17943(z)



- Clarified that container is reused to hold a replacement product sold by the same manufacturer to replenish the contents of the original RPPC.
- Clarification that it does not permanently store the original product.

Rigid Plastic Packaging



Container, Section 17943 (aa)

- Changes were made to create a more level playing field.
- At least one closure vs. multiple closures.
- Caps, lids, handles may be non-plastic vs. all plastic containers.
- Addresses newer types of packaging such as foldable containers.

Source Reduced Container, Section 17943(AF)



- Clarifies that “similar RPPCs” are alike in shape, volume, and concentration when complying through source reduction for particular type RPPCs.
- Resin switching is not allowed as a compliance option.

Proposed New Definitions



- Concentrated Product - 17943 (b)
- Container Line - 17943 (c)
- Product Line - 17943 (s)
- Product Sub-Line - 17943 (u)

Container Requirements, CalRecycle

Section 17944

- This section provides the five compliance options that product manufacturers must comply with. The section is based on PRC 42310 and cannot be modified to meet all of the interested parties' requests.

Alternative Container



Compliance Method, Section 17944.1

This section was developed and added to address the new statutory compliance option added through SB 743 and SB 1344.

- California-generated PCM used in other products or packaging **may** be credited toward the PCM content option.
- California-generated PCM must either be equivalent to or exceed the statutory 25% PCM threshold.

Pre-Certification Process **CalRecycle**

and Compliance Certification, Sections 17945.1 & 17945.2

- Product manufacturers will be notified one year before the measurement period, and two years before a certification would be due.
- Allows companies time to resolve issues before the measurement period.

Product and Container



Manufacturer Certification Information, Sections 17945.3 & 17945.4

- Product and container manufacturers said the existing certification process is confusing as information is spread throughout the current regulation. The proposed revisions consolidate the requirements.

Compliance Calculations **CalRecycle**

and Formulas, Sections 17945.5

- This section reorganizes the compliance calculations and formulas and separates them from other requirements.

Waivers and Exemptions, CalRecycle

Sections 17946 & 17946.5

- Waivers

This section clarifies the length of time a new product has before it must comply with RPPC requirements.

- Exemptions

This section clarifies the need to document why an exemption is being claimed.

Auditing, Proprietary, Confidential, or Trade Secret Information and Records Retention



- Sections 17947, 17948, and 17948.1 have been developed to be consistent with State of California and CalRecycle standard procedures and protocols.

Advisory Opinions, Section 17948.2



- Establishes a routine process for a product manufacturer to request an advisory opinion from the Department as to whether a container is a regulated RPPC.
- Advisory opinions can be requested in the pre-certification or certification process.

Violations and Penalties, CalRecycle

Section 17949

- Now organized by compliance option.
- Presents the formulas to be used to determine the degree of noncompliance and applicable penalties.
- Container manufacturer providing false or misleading information on its certification to the product manufacturer, will be subject to fines and penalties.

Economic and Fiscal Impact Study



2008 Manufacturer and Processor Survey:

- Mailed approx. 1,500 surveys
- 95 Total Responses
 - 85 Manufacturers
 - 10 Processors

Economic and Fiscal Impact Study



- **Methodology:** Estimate cost based on the number of RPPCs and amount of plastic used in container design
 - Waste Characterization Study
 - PET & All-RPPC Recycling Rates
 - CRV Beverage Sales and Recycling Data
 - Manufacturer Certifications (1996—2005)
 - BOE Retail Sales; US Dept of Commerce Income and Census of Manufacturing

Economic and Fiscal Impact Study



- American Chemistry Council: Resin Production/Sales and Recycling
- Plastics News and others: Resin Prices
- Survey Responses and Personal Conversations
- Internal Revenue Service Publications
- California ARB: Independent Evaluation and Verification of Methodology and Results.

Economic and Fiscal Impact Study



Proposed Regulation Amendment	Number of Impacted Containers (Millions)	Cost to California-Based Product Manufacturers (\$/Year)	Total Statewide Cost for All California Users of RPPCs (\$/Year)	Cost Impact Per Impacted Container (\$)
Annual Total Statewide Cost Impact of All Regulation Amendments	672,700,000	\$433,000	\$3,491,000	\$0.005
Annual Recordkeeping Cost of Amendments		\$26,000	\$102,000	\$0.00015

Conclusion



- Proposed changes to the regulations will:
 - Bring the regulations up-to-date with statute.
 - Help “level the playing field”.
 - Establish clearer procedures and timelines for the compliance process.
 - Divert RPPCs from disposal.
 - Support collection infrastructure and markets for postconsumer material.